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Skagit County Auditor

Return Address:
City of Anacortes
Planning and Community Development
904 6th Street
Post Office Box 547
Anacortes, WA 98221

Drainage BMP Facility Maintenance Covenant

Grantor(s) hereinafter referred to as **Grantor**:

1. RMW INVESTMENTS LLC.

Grantee: City of Anacortes, hereinafter referred to as the **City**, a Political Subdivision under the Laws of the State of Washington.

Legal Description of property encumbered by covenant:
Abbreviated:

Survey recorded under AF # 200504250189 **. See attached Exhibit A for abbreviated Legal Description.**

Common Name of the Development of the property encumbered by covenant:

WELCH INDUSTRIAL COMPLEX

Located in NE SE qtr. Sec. 4 Twp. 34, Rge. 2.

Reference Number(s) of documents assigned, released, or modified: **N/A**

Assessor's Property Tax Parcel/Account Number(s) of property(s) encumbered by the drainage covenant: P102855

Grantor has a record interest in the property encumbered by the covenant and agrees that the obligations of Grantor shall inure to the benefit of and be binding upon the heirs, successors, and assigns. Grantor agrees that this covenant touches and concerns the land described in **Page 1 of this agreement** and shall run with the land.

Grantor by execution of this covenant acknowledges that the benefits of this covenant inure to Grantor, downstream property owners, and the general public, and that the City as third-party beneficiary of this covenant has the right, but not the obligation, to enforce this covenant on behalf of downstream property owners and the general public. The City requires this covenant to protect private and public property, private and public drainage infrastructure, and natural resources of downstream property owners and the general public.

Grantor in consideration of the approval of the City development permit No. BD-2024-0091, relating to the real property described on **Page 1** and in consideration of other valuable consideration, receipt and sufficiency of which is hereby acknowledged, hereby covenants to perform regular inspections upon the drainage facilities installed, or to be installed, upon Grantor's property. These inspections shall compare the facility/BMP device to the standards described in the current Stormwater Management Manual for Western Washington in use by the City of Anacortes (herein referred to as "the Manual") for all elements of the stormwater drainage system. For any BMP facility approved by the City but not included in the Manual; maintenance standards shall be as described in the manufacturer's operation and maintenance manual; which shall also be referred to as the Manual. As applicable, the system shall include the stormwater conveyance pipes, ditches, swales, and catch basins; stormwater flow regulation system detention ponds, vaults, pipes, retention ponds, flow regulation and control structures; infiltration systems and all other stormwater quality or flow control system.

The inspections conducted on all facility/BMPs shall be performed by qualified personnel who have received professional training in the aspects of stormwater management for which they are responsible to inspect. For example a person qualified to perform an inspection on a detention pond must demonstrate that they have received professional training specifically on detention pond maintenance and compliance with standards.

The City shall request a record of the inspection annually. The Grantor shall provide to the City a written record of the inspection performed and the condition of the facility/BMP upon request. The record shall provide an explanation of each maintenance component and potential defect identified in the maintenance standards in the Manual for each specific BMP/facility. Where measurements must be taken to (trash or debris exceeds 60% of the sump...) the actual field measurements must be included on the report. Pictures of each BMP facility shall be included, and the date(s) of the inspections must be clearly identified.

The scope of this covenant and right of entry shall be adequate to provide for the access, inspection, and maintenance of the stormwater drainage system, and shall be subject to the following terms and conditions:

1. The City shall have the perpetual right of entry across adjacent lands of the Grantor for purposes of inspecting, auditing, or conducting required maintenance of the drainage BMP facility.
2. The facility specific maintenance standards contained in the Manual are intended to be conditions for determining if maintenance actions are required. The standards are not intended to be a measure of the facility's required condition at all times. Discovery through inspection that a facility's condition is in exceedance of a standard does not constitute a violation of this agreement.
3. Should a facility be discovered in a condition that constitutes an exceedance of any described standard, maintenance shall be performed on the following schedule:
 - a. Within nine months for typical maintenance of facilities, except catch basins.
 - b. Within three months for catch basins.
 - c. Within eighteen months for any maintenance that requires capital construction or expenditure over \$25,000
4. In the event that Grantor fails to complete the required maintenance within the identified time period, the City shall have the right to immediately and without further notice perform or contract with others to perform all maintenance necessary to return the facility/BMP to compliance with the standard. This work shall be performed at the sole expense of the Grantor.
5. If the City in its sole discretion determines that an imminent or present danger exists, that any condition exists that could constitute a threat to human health, welfare or the environment, or any condition exists that could cause the City to be found in violation of the Western Washington Phase II Municipal Stormwater NPDES permit issued to the City of Anacortes, or any other environmental permit, the City may take any action required including beginning maintenance or repairs immediately at Grantor's expense without prior notice to Grantor. In such event, the City shall provide Grantor with a written statement and accounting of all work performed and the fees, charges, and expenses incurred in making such repairs. Grantor shall agree to reimburse the City or pay the City's vendors directly for all reasonable fees, charges, and expenses identified in the City's statement.
6. If the City is required to act as a result of Grantor's failure to comply with this covenant, the City may remove any obstructions and/or interferences that in the sole opinion of the City impair the operation of the drainage BMP facility or the maintenance thereof. Grantor agrees to hold the City, its officers,

employees, and agents harmless from any and all claims, actions, suits, liability, loss, expenses, damages and judgments of any nature whatsoever, including costs and attorney's fees, incurred by the removal of vegetation or physical interference from the drainage BMP facility.

7. When exercising the maintenance provisions of the covenant, in the event of nonpayment, the City may bring suit to recover such costs, including attorney's fees, and upon obtaining a judgment, such amount shall become a lien against the property of Granter as provided in RCW 4.56.190.
8. Grantor covenants that the owners of the property described herein are the person or persons identified on page 1 of this covenant as Grantors, that they have the right to grant this covenant on the property, and that the title to the property is free and clear of any encumbrances which would interfere with the ability to grant this covenant.

Executed this 15 day of NOVEMBER

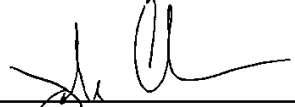
Grantors:

Signature(s) 

Printed Name(s): MICHAEL WELCH

Title of Authorized Representative(s):
(if signing on behalf of a corporation)
MEMBER

Accepted and approved for the City of
Anacortes:



Director Date: 11.15.24
City of Anacortes Department of Planning and
Community Development Services

8957 STEVENSON ROAD ANACORTES WA. OPERATIONS AND MAINTENANCE REQUIREMENTS

BIOFILTRATION SWALE & STORM DRAINAGE SYSTEM

Biofiltration Swale Maintenance Criteria

Inspect biofiltration swales at least once every 6 months, preferably during storm events, and also after storm events of > 0.5 inch rainfall/24 hours. Maintain adequate grass growth and eliminate bare spots.

Mow grasses, if needed for good growth (typically maintain at 4 – 9 inches and not below design flow level. (King County Department of Natural Resources, 1998)

Remove sediment as needed at the head of the biofiltration swale if grass growth is inhibited in greater than 10 percent of the swale, or if the sediment is blocking the distribution and entry of the water. (King County Department of Natural Resources, 1998)

Remove leaves, litter, and oily materials, and re-seed or resod, and regrade, as needed. Clean curb cuts and level spreaders as needed.

Prevent scouring and soil erosion in the biofiltration swale. If flow channeling occurs, regrade and reseed the biofiltration swale, as necessary.

Maintain access to the biofiltration swale inlet, outlet, and to mowing (see Figure V-7.10:

If a biofiltration swale is equipped with underdrains, vehicular traffic on the swale bottom (other than grass mowing equipment) should be avoided to prevent damage to the under-drain.

Table V-A.6: Maintenance Standards - Debris Barriers (e.g., Trash Racks)

Maintenance Components	Defect	Condition When Maintenance Is Needed	Results Expected When Maintenance Is Performed
General	Trash and Debris	Trash or debris that is plugging more than 20% of the openings in the barrier.	Barrier cleaned to design flow capacity.
Metal	Damaged/ Missing Bars	Bars are bent out of shape more than 3/4 inch.	Bars in place with no bends more than 3/4 inch.
		Bars are missing or entire barrier missing.	Bars in place according to design.
	Inlet/Outlet Pipe	Bars are loose and rust is causing 50% deterioration to any part of barrier. Debris barrier missing or not attached to pipe	Barrier repaired or replaced to design standards. Barrier firmly attached to pipe

Table V-A.7: Maintenance Standards - Energy Dissipators

Maintenance Components	Defect	Conditions When Maintenance Is Needed	Results Expected When Maintenance is Performed
External:			
Rock Pad	Missing or Moved Rock	Only one layer of rock exists above native soil in area five square foot or larger, or any exposure of native soil.	Rock pad replaced to design standards.
	Erosion	Soil erosion in or adjacent to rock pad.	Rock pad replaced to design standards.
Dispersion Trench	Pipe Plugged with Sediment	Accumulated sediment that exceeds 20% of the design depth.	Pipe cleaned/flushed so that it matches design.
	Not Discharging Water Properly	Visual evidence of water discharging at non-saturated points along trench (normal condition is a "sheet flow" of water along trench). Intent is to prevent erosion damage.	Trench redesigned or rebuilt to standards.
	Performances Plugged	Over 1/2 of perforations in pipe are plugged with debris and sediment.	Perforated pipe cleaned or replaced.
	Water Flows Out Top of "Distributor" Catch Basin.	Maintenance person observes or receives credible report of water flowing out during any storm less than the design storm or its causing or appears likely to cause damage.	Facility rebuilt or redesigned to standards.
Internal:			
Manhole/Chamber	Receiving Area Over-Saturated	Water-inflowing area is causing or has potential of causing landslide problems.	No danger of landslides.
	Worn or Damaged Post, Baffles, Side of Chamber	Structure dissipating flow deteriorates to 1/2 of original size or any concentrated worn spot exceeding one square foot which would make structure unsound.	Structure replaced to design standards.
	Other Defects	See Table V-A.5: Maintenance Standards - Catch Basins	See Table V-A.5: Maintenance Standards - Catch Basins

Table V-A.8: Maintenance Standards - Typical Biofiltration Swale

Maintenance Component	Defect or Problem	Condition When Maintenance Is Needed	Recommended Maintenance to Correct Problem
General	Sediment Accumulation on Grass	Sediment depth exceeds 2 inches.	Remove sediment deposits on grass treatment area of the bio-swale. When finished, swale should be level from side to side and drain freely toward outlet. There should be no areas of standing water once inflow has ceased.
	Standing Water	When water stands in the swale between storms and does not drain freely.	Any of the following may apply: remove sediment or trash blockages, improve grade from head to foot of swale, remove clogged check dams, add underdrains or convert to a wet biofiltration swale.
	Flow spreader	Flow spreader uneven or clogged so that flows are not uniformly distributed through entire swale width.	Level the spreader and clean so that flows are spread evenly over entire swale width.

Table V-A.8: Maintenance Standards - Typical Biofiltration Swale (continued)

Maintenance Component	Defect or Problem	Condition When Maintenance Is Needed	Recommended Maintenance to Correct Problem
	Constant Base-flow	When small quantities of water continually flow through the swale, even when it has been dry for weeks, and an eroded, muddy channel has formed in the swale bottom.	Add a low-flow pea-gravel drain the length of the swale or by-pass the baseflow around the swale.
	Poor Vegetation Coverage	When grass is sparse or bare or eroded patches occur in more than 10% of the swale bottom.	Determine why grass growth is poor and correct that condition. Re-plant with plugs of grass from the upper slopes; plant in the swale bottom at 8-inch intervals. Or re-seed into loosened, fertile soil.
	Vegetation	When the grass becomes excessively tall (greater than 10-inches), when nuisance weeds and other vegetation starts to take over.	Mow vegetation or remove nuisance vegetation so that flow not impeded. Grass should be mowed to a height of 3 to 4 inches. Remove grass clippings.
	Excessive Shading	Grass growth is poor because sunlight does not reach swale.	If possible, trim back overhanging limbs and remove brushy vegetation on adjacent slopes.
	Inlet/Outlet	Inlet/outlet areas clogged with sediment and/or debris.	Remove material so that there is no clogging or blockage in the inlet and outlet area.
	Trash and Debris Accumulation	Trash and debris accumulated in the bio-swale.	Remove trash and debris from bio-swale.
	Erosion/Scouring	Eroded or scoured swale bottom due to flow channelization, or higher flows.	For ruts or bare areas less than 12 inches wide, repair the damaged area by filling with crushed gravel. If bare areas are large, generally greater than 12 inches wide, the swale should be re-graded and re-seeded. For smaller bare areas, overseed when bare spots are evident, or take plugs of grass from the upper slope and plant in the swale bottom at 8-inch intervals.

Table V-A.9: Maintenance Standards - Wet Biofiltration Swale

Maintenance Component	Defect or Problem	Condition When Maintenance Is Needed	Recommended Maintenance to Correct Problem
General	Sediment Accumulation	Sediment depth exceeds 2-inches in 10% of the swale treatment area.	Remove sediment deposits in treatment area.
	Water Depth	Water not retained to a depth of about 4 inches during the wet season.	Build up or repair outlet berm so that water is retained in the wet swale.
	Wetland Vegetation	Vegetation becomes sparse and does not provide adequate filtration. OR Vegetation is crowded out by very dense clumps of cattail, which do not allow water to flow through the clumps.	Determine cause of lack of vigor of vegetation and correct. Replant as needed. For excessive cattail growth, cut cattail shoots back and compost off-site. Note: normally wetland vegetation does not need to be harvested unless die-back is causing oxygen depletion in downstream waters.
	Inlet/Outlet	Inlet/outlet area clogged with sediment and/or debris.	Remove clogging or blockage in the inlet and outlet areas.
	Trash and Debris Accumulation	See Table V-A. 1: Maintenance Standards - Detention Ponds	Remove trash and debris from wet swale.
	Erosion/Scouring	Swale has eroded or scoured due to flow channelization, or higher flows.	Check design flows to assure swale is large enough to handle flows. By-pass excess flows to storage swale. Replant eroded areas with fibrous-rooted plants such as Juncus effusus (soft rush) in wet areas or snowberry (Symphoricarpos albus) in dryer areas.

Table V-A.5: Maintenance Standards - Catch Basins

Maintenance Component	Defect	Conditions When Maintenance is Needed	Results Expected When Maintenance is performed
General	Trash & Debris	Trash or debris which is located immediately in front of the catch basin opening or is blocking inletting capacity of the basin by more than 10%. Trash or debris (in the basin) that exceeds 60 percent of the sump depth as measured from the bottom of basin to invert of the lowest pipe into or out of the basin, but in no case less than a minimum of six inches clearance from the debris surface to the invert of the lowest pipe. Trash or debris in any inlet or outlet pipe blocking more than 1/3 of its height. Dead animals or vegetation that could generate odors that could cause complaints or dangerous gases (e.g., methane).	No Trash or debris located immediately in front of catch basin or on grate opening. No trash or debris in the catch basin. Inlet and outlet pipes free of trash or debris. No dead animals or vegetation present within the catch basin.
	Sediment	Sediment (in the basin) that exceeds 60 percent of the sump depth as measured from the bottom of basin to invert of the lowest pipe into or out of the basin, but in no case less than a minimum of 6 inches clearance from the sediment surface to the invert of the lowest pipe.	No sediment in the catch basin
	Structure Damage to Frame and/or Top Slab	Top slab has holes larger than 2 square inches or cracks wider than 1/4 inch. (Intent is to make sure no material is running into basin). Frame not sitting flush on top slab, i.e., separation of more than 3/4 inch of the frame from the top slab. Frame not securely attached	Top slab is free of holes and cracks. Frame is sitting flush on the riser rings or top slab and firmly attached.
	Fractures or Cracks in Basin Walls/Bottom	Maintenance person judges that structure is unsound. Grout fillet has separated or cracked wider than 1/2 inch and longer than 1 foot at the joint of any inlet/outlet pipe or any evidence of soil particles entering catch basin through cracks.	Basin replaced or repaired to design standards. Pipe is regouted and secure at basin wall.
	Settlement/ Misalignment	If failure of basin has created a safety, function, or design problem.	Basin replaced or repaired to design standards.
	Vegetation	Vegetation growing across and blocking more than 10% of the basin opening. Vegetation growing in inlet/outlet pipe joints that is more than six inches tall and less than six inches apart.	No vegetation blocking opening to basin. No vegetation or root growth present.
	Contamination and Pollution	See Table V-A.1: Maintenance Standards - Detention Ponds	No pollution present.
	Cover Not in Place	Cover is missing or only partially in place. Any open catch basin requires maintenance.	Cover/grate is in place, meets design standards, and is secured
	Locking Mechanism Not Working	Mechanism cannot be opened by one maintenance person with proper tools. Bolts into frame have less than 1/2 inch of thread.	Mechanism opens with proper tools.
	Cover Difficult to Remove	One maintenance person cannot remove lid after applying normal lifting pressure. (Intent is keep cover from seeking off access to maintenance.)	Cover can be removed by one maintenance person.
Ladder	Ladder Rungs Unsafe	Ladder is unsafe due to missing rungs, not securely attached to basin wall, misalignment, rust, cracks, or sharp edges.	Ladder meets design standards and allows maintenance person safe access.
Metal Grates (If Applicable)	Grate opening Unsafe	Grate with opening wider than 7/8 inch.	Grate opening meets design standards.
	Trash and Debris	Trash and debris that is blocking more than 20% of grate surface inletting capacity.	Grate free of trash and debris.
	Damaged or Missing.	Grate missing or broken member(s) of the grate.	Grate is in place, meets the design standards, and is installed and aligned with the flow path.